

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 96001

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-027-95

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

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For Emergency
Regulations Only

Effective Date _____

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Governor's Signature

Nevada State Environmental Commission

Classification [] Proposed [] Adopted By Agency [xx] Temporary [] Emergency []

Brief description of action: **Petition 96001** permanently amends the hazardous waste regulation NAC 444.8427 to 444.948. NAC 444.8427, 444.84275, 444.850, 444.8632 and 444.9452 are amended to update the effective date of federal provisions to July 1, 1995. The adopted amendments modify the regulations pertaining to polychlorinated biphenyls (PCB's) to repeal the state code numbers and the requirement for submission of an annual report to the state by PCB generators. NAC 444.9455 and 444.948 are repealed. Petition 96001 supersedes Petition 95007, adopted as a temporary regulation on April 4, 1995.

Authority citation other than 233B: NRS 445.485, 445.490, and 445.500

Notice date: August 31, September 6 and September 12, 1995

Hearing date: October 3, 1995

Date of Adoption of Agency: October 3, 1995

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 96001
LCB FILE R-027-95**

The following statement is submitted for adopted permanent amendments to Nevada Administrative Code (NAC) 444.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 96001 (R-027-95) was noticed three (3) times: August 31, 1995, September 6, 1995 and September 12, 1995 in the Las Vegas Review and Reno Gazette-Journal newspapers. No public comment was received. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670, or writing in to the Commission at 333 W. Nye Ln., Room 128, Carson City, Nevada 89710.

2. The number persons who:

- (a) **Attended each hearing;** 23
- (b) **Testified at each hearing:** 14
- (c) **Submitted to the agency written comments:** No comments were submitted for this petition. Overall, six comments were submitted to the Commission at the hearing when this petition was adopted. Also see petitions 95003 and 96002 for a discussion on the comments received.

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. Comments supporting the petition and for the adoption of Universal Waste Rules were received from the Union Pacific Railroad Company (exhibit #5). A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing in to the Commission at 333 W. Nye Ln., Room 128, Carson City, Nevada 89710.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted at the State Environmental Commission hearing on October 3, 1995 with no changes proposed by the public or businesses or the agency.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
 - (b) Both immediate and long-term effects.
- a. As federally mandated requirements, adoption of these amendments is not anticipated to have any additional adverse economic impact on Nevada businesses, but conversely it should make it easier for affected businesses to comply by simplifying the requirements. In addition, the State is required to adopt these federal regulations to maintain authorization for the RCRA hazardous waste program.
 - b. There is no estimated economic effect on the public, either adverse or beneficial, nor immediate or long-term.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The action is to adopt by reference federal regulations, thereby securing state primacy in implementing the federal law. There are no other state or government agency regulations which the proposed amendments duplicate.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

These regulations are consistent with federal regulations and they are not more stringent than the federal regulations.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide for a new fee, and hence since no fee is involved there is not a total amount expected to be collected or used.

ADOPTED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R027-95

Explanation: Matter in *italics* is new; matter in [] is material to be omitted. language.

AUTHORITY: NRS 459.485, 459.490, 459.500

Section 1. NAC 444.8427 is hereby amended to read as follows:

444.8427 "Facility for community recycling" means a facility for recycling hazardous waste which has a yearly capacity that is not more than twice the amount of the type of hazardous waste proposed to be recycled that is generated within the region in this state in which the facility is or is proposed to be located, as determined by the generation rate contained in the biennial report required by the provisions of 40 C.F.R. § 262.41, as that section existed on July 1, [1990.] **1995**.

Sec. 2. NAC 444.84275 is hereby amended to read as follows:

444.84275 "Facility for community storage" means a facility for the storage and consolidation of hazardous waste which has a yearly capacity that is not more than twice the amount of hazardous waste that is generated within the county in which the facility is or is proposed to be located, as determined by the generation rate contained in the biennial report required by the provisions of 40 C.F.R. § 262.41, as that section existed on July 1, [1990.] **1995**.

Sec. 3. NAC 444.850 is hereby amended to read as follows:

444.850 As used in NAC 444.850 to 444.8746, inclusive, unless the context otherwise requires:

1. The words and terms defined in NAC 444.8505 to 444.861, inclusive, have the meanings ascribed to them in those sections.

2. Except for the words and terms otherwise defined in NAC 444.8505 to 444.861, inclusive, the words and terms defined in 40 C.F.R. § 260.10, as it existed on July 1, [1993.] **1995**, have the meanings ascribed to them in that section.

Sec. 4. NAC 444.8632 is hereby amended to read as follows:

444.8632 1. In addition to the requirements of NAC 444.850 to 444.8746, inclusive, any person who generates, transports, treats, stores, disposes or otherwise manages hazardous waste or used oil shall comply with all applicable requirements of, and may rely upon applicable exclusions or exemptions under 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270, inclusive, **Part 273** and Part 279, as those provisions existed on July 1, [1994.] **1995**, which, except as modified by NAC 444.86325, 444.8633 and 444.8634, are hereby adopted by reference. The state environmental commission may use federal statutes and regulations that are cited in 40 C.F.R. Part 2, Subpart A. Part 124, Subparts A and B,

Parts 260 to 270, inclusive, **Part 273** and Part 279, to interpret these sections and parts.

2. The volumes containing these parts may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, for the following prices:

- (a) Volume 40 C.F.R. Part 2 [**\$31**] **\$39**
- (b) Volume 40 C.F.R. Part 124 [**34**] **39**
- (c) Volume 40 C.F.R. Parts 260 to 270, inclusive, **273** and 279 36

Sec. 5. NAC 444.9452 is hereby amended to read as follows:

444.9452 1. All sections, subparts and parts of Title 40 of the Code of Federal Regulations referred to in NAC 444.940 to 444.9555, inclusive, as modified by NAC 444.9453, are hereby adopted by reference as they existed on July 1, [**1990,**] **1995**.

2. The volumes containing these sections, subparts and parts may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.E. 20402, for the following prices:

- (a) The volume containing 40 C.F.R. Parts 260 to 270, inclusive, **273 and 279** [**\$29**] **\$36**
- (b) The volume containing 40 C.F.R. Part 761 [**15**] **28**

Sec. 6. NAC 444.946 is hereby amended to read as follows:

444.946 1. A generator of **waste containing** polychlorinated biphenyl shall not treat, store, dispose of, transport or offer for transportation any waste containing polychlorinated biphenyl without having received an identification number from the United States Environmental Protection Agency.

2. A generator of **waste containing** polychlorinated biphenyl shall mark his items as prescribed in 40 C.F.R. Part 761, Subpart C.

3. A generator of **waste containing** polychlorinated biphenyl who transports or offers for transportation waste containing polychlorinated biphenyl for treatment storage or disposal at a place other than a site which is owned or operated by the generator shall prepare a manifest before transporting the waste. The manifest must be prepared and distributed in accordance with NAC 444.8655 and 40 C.F.R. Part 262.42.

4. **[A generator of polychlorinated biphenyl shall submit to the director by July 1 of each year a copy of the annual report prepared in accordance with 40 C.F.R. Part 761, Subpart J.**

5.] A generator of **waste containing** polychlorinated biphenyl shall retain a copy of the results of each test or analysis of waste containing polychlorinated biphenyl in accordance with 40 C.F.R. §§ 262.40(c) and 262.40(d).

5. A generator of waste containing polychlorinated biphenyl shall not offer the waste to transporters or to facilities for its treatment, storage, or disposal that do not have an identification number or are not authorized to accept such waste.

Sec. 7. NAC 444.9455 and 444.948 are hereby repealed.

TEXT OF REPEALED SECTIONS

444.9455 Assignment of code numbers. Waste containing polychlorinated biphenyl will be assigned the following code number by the Division of Environmental Protection:

Number	Waste
B001	Oil contaminated with 500 ppm or greater of polychlorinated biphenyl from transformers, capacitors or other electrical equipment.
B002	Petroleum oil contaminated with 50 ppm or greater of polychlorinated biphenyls, but less than 500 ppm polychlorinated biphenyls.
B003	Petroleum oil contaminated with 500 ppm or greater of polychlorinated biphenyls.
B004	Soil contaminated by polychlorinated biphenyl.
B005	Solids and sludges contaminated by polychlorinated biphenyl.
B006	Clothing or rags contaminated by polychlorinated biphenyl.
B007	Capacitors contaminated by polychlorinated biphenyl.
B008	Dredge material contaminated by polychlorinated biphenyl.
B009	Other wastes contaminated by polychlorinated biphenyl.
B010	Electrical equipment containing 50 ppm or greater of polychlorinated biphenyl but less than 500 ppm, as defined in 40 C.F.R. 761, Section 761.3.
B011	Electrical equipment containing 500 ppm or greater of polychlorinated biphenyl, as defined in 40 C.F.R. 761, Section 761.3.

444.948 Conduct prohibited without identification number.

1. A generator of waste containing polychlorinated biphenyl shall not treat, store, dispose of, transport or offer for transportation waste containing polychlorinated biphenyl without having received an identification number from the United States Environment Protection Agency.
2. A generator shall not offer his waste containing polychlorinated biphenyl to transporters or to facilities for its treatment, storage or disposal that do not have an identification number or are not authorized to accept that waste.

END OF PETITION 96001 (LCB R027-95)